

WILLIAM J. PENNINGTON, III

ATTORNEY AT LAW

4 CREEKSIDE DRIVE
PAWLEYS ISLAND, SOUTH CAROLINA 29585

DOCKET FILE COPY ORIGINAL

ADMITTED IN NORTH CAROLINA
TELEPHONE (803) 237-2591
FAX (803) 237-2591

PRACTICE LIMITED TO MATTERS BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

MAILING ADDRESS:
P.O. Box 2506
PAWLEYS ISLAND, SC 29585

May 17, 1993

RECEIVED

MAY 21 1993

Donna Searcy, Secretary
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

MAY 21 1993

FCC - MAIL ROOM

RE: Joint Petition for Rule Making

Dear Ms. Searcy:

Transmitted herewith, on behalf of Ozark Mountain Broadcasting, Inc. and KYOO Broadcasting Company, is an original and four copies of a Joint Petition for Rule Making seeking changes in the Commission's FM Table of Allotments.

Should there be any questions regarding this matter please do not hesitate to contact the undersigned.

Very truly yours,



William J. Pennington, III
COUNSEL TO OZARK MOUNTAIN
BROADCASTING, INC.
COUNSEL TO KYOO BROADCASTING
COMPANY

Enc.
WJP/tlt

No. of Copies rec'd
List A B C D E

074

Before the

RECEIVED

FEDERAL COMMUNICATIONS COMMISSION

MAY 21 1993

MAY 21 1993

Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

FCC - MAIL ROOM

In the Matter of)	
)	
Amendment of Section 73.202(b))	MM Docket No.
FM Table of Allotments)	RM-
(Ozark, Missouri))	

To: Chief, Policy and Rules Division

JOINT PETITION FOR RULE MAKING

Ozark Mountain Broadcasting, Inc. ("OMB"), permittee of Station KZPF(FM) at Ozark, Missouri, and KYOO Broadcasting Company ("KBC"), permittee of Station KYOO-FM at Halfway, Missouri, by their counsel, hereby respectfully jointly request that the Commission amend Rule 73.202(b), the FM Table of Allotments, to (i) substitute Channel 225C2 for Channel 225A at Ozark, Missouri and modify the construction permit for Station KZPF(FM) accordingly and; (ii) substitute Channel 256A for Channel 226A at Halfway, Missouri and modify the construction permit for Station KYOO-FM accordingly.

In support of this allocation request, the following information is respectfully submitted:

1. As is demonstrated in the attached Exhibit 1, Channel 225C2 may be allotted to Ozark, Missouri with a site restriction of 26 kilometers west of the community. Channel 225C2 can be allotted to Ozark since changes were made in the Commission's FM

Table of Allotments as part of the Report and Order issued in MM Docket No. 92-49. In Docket 92-49, the Commission substituted Channel 258A for Channel 225A at Huntsville, Arkansas and substituted Channel 299A for Channel 228A at Greenfield, Missouri.

2. Additionally, to effectuate the proposed upgrade at Ozark, Channel 256A would have to be substituted for Channel 226A at Halfway, Missouri and the construction permit for Station KYOO-FM modified accordingly. Exhibit 2 shows that Channel 256A can be allotted to Halfway if site restricted 14.2 kilometers north of the community so to meet spacing requirements with second adjacent channel Station KKHT at Springfield, Missouri. KKHT operates on FM Channel 254C1. KBC has no objection to having Channel 256A allotted to Halfway at a site restricted location other than where it is now permitted operation. KBC is willing to seek a modification of its existing construction permit outlining a new antenna site so to allow an upgrade of KZPF at Ozark. OMB has agreed to reimburse KBC for its reasonable costs associated with seeking a modification of its construction permit so to operate within the site restricted area denoted herein for allotment of Channel 256A to Halfway.

3. If Channel 256A is substituted for Channel 226A at Halfway, the permissible antenna site area for a station operating on Channel 256A in that community would be ample. The area where the antenna could be located is close enough so that a station operating on Channel 256A should have no difficulty

placing a 70 dBu service contour over the entire community of Halfway. Complete line of sight coverage would also would be provided the community of Halfway.

4. If channel 225C2 is substituted for Channel 225A at Ozark, the permissible antenna site area for a station operating on Channel 225C2 in that community would be ample. The area where an antenna could be located is close enough so that a station operating on Channel 225C2 should have no difficulty placing a 70 dBu contour over the entire community of Ozark. Complete line of sight coverage would also be provided the community of Ozark.

5. The allotment of Channel 225C2 to Ozark, and modification OMB's construction permit to specify operation thereon, will permit OMB to serve a much larger area, thereby increasing the number of broadcast signals available to the public in the given area and thus promoting efficient use of the spectrum. The Commission has determined that expanded service to the public and spectrum efficiency provide significant public interest benefits. See Report and Order in MM Docket No. 85-313, 60 RR 2d 114, 118 (1986). Thus, OMB's proposal would serve the public interest.

6. Because Channel 225C2 would not be available to a third party for use at Ozark, OMB's construction permit may be modified to specify operation on the higher class channel pursuant to Rule 1.420(g). Upon grant of this request, OMB will proceed promptly with construction of its upgrade.

7. Based upon the foregoing, OMB and KBC hereby

respectfully requests that the Commission modify its FM Table of Allotments to (i) substitute Channel 225C2 for Channel 225A at Ozark, Missouri and modify its construction permit for Station KZPF accordingly; (ii) substitute Channel 256A for Channel 226A at Halfway, Missouri and modify its construction permit for Station KYOO-FM accordingly.

Respectfully submitted,

OZARK MOUNTAIN BROADCASTING, INC.

KYOO BROADCASTING COMPANY

By: 

William J. Pennington, III
Their Attorney

Post Office Box 2506
Pawleys Island, SC 29585
(803) 237-2591

May 17, 1993

Exhibit 1

FM SPACING STUDY

JOB TITLE: OZARK, MO
 CHANNEL 225C2
 COORDINATES: 36-58-45 93-26-38

CALL STATUS	CITY STATE	CHANNEL	LATITUDE LONGITUDE	BEARING	DIST (KM)	REQ. (KM)
KBUG LIC	OSCEOLA MO	222 A	38-02-12 93-34-47	354.22	117.98	55.0 CLEAR
KSYN LIC	JOPLIN MO	223 C1	37-04-10 94-32-49	276.18	98.67	79.0 CLEAR
KLOZ LIC	ELDON MO	224 C2	38-20-27 92-35-33	26.08	168.77	130.0 CLEAR
KBEZ LIC	TULSA OK	225 C	36-11-26 96-05-50	250.48	253.07	249.0 CLEAR
KZLE CP	BATESVILLE AR	226 C	35-53-26 91-44-00	127.83	195.24	188.0 CLEAR
KYOO-FM CP	HALFWAY MO	226 A	37-41-21 93-20-11	6.83	79.37	106.0 SHORT*(1)
ADD	SELIGMAN MO	227 C1	36-28-03 94-10-25	229.04	86.45	79.0 CLEAR
ADD	OSAGE BEACH MO	228 C3	38-17-33 92-34-24	27.43	164.78	56.0 CLEAR

THIS STUDY ONLY SHOWS THOSE CHANNEL AUTHORIZATIONS OR PROPOSALS NEAREST TO THE SPECIFIED COORDINATES WHICH ARE OF CONCERN FOR ALLOCATION PURPOSES.

*(1) AS PART OF THIS PETITION FOR RULE MAKING, THE PERMITTEE OF KYOO-FM AT HALFWAY, MISSOURI HAS AGREED TO ACCEPT THE SUBSTITUTION OF CHANNEL 256A FOR CHANNEL 226A AND RELOCATE TO A NEW TRANSMITTER SITE. THUS, NO SHORT SPACING WILL OCCUR.

AS PART OF MM DOCKET NO. 92-49, CHANNEL 300A HAS BEEN SUBSTITUTED FOR CHANNEL 228A AT GREENFIELD, MISSOURI. IN ADDITION, AS PART OF THE SAME DOCKET, CHANNEL 258A WAS SUBSTITUTED FOR CHANNEL 225A AT HUNTSVILLE, ARKANSAS.

Exhibit 2

FM SPACING STUDY

JOB TITLE: HALFWAY, MO

CHANNEL 256A

COORDINATES: 37-44-35 93-15-00

CALL STATUS	CITY STATE	CHANNEL	LATITUDE LONGITUDE	BEARING	DIST (KM)	REQ. (KM)
ADD	WARSAW MO	253 A	38-20-30 93-21-55	351.41	67.21	31.0 CLEAR
KKHT LIC	SPRINGFIELD MO	254 C1	37-04-06 93-18-31	183.97	75.06	75.0 CLEAR
KRVK LIC	LEAVENWORTH KS	255 C	39-04-14 94-34-59	322.21	187.81	165.0 CLEAR
ALC	ST. ROBERT MO	255 A	37-49-41 92-10-39	83.94	94.95	72.0 CLEAR
KYPG LIC	GIRARD KS	256 A	37-29-02 94-51-08	258.95	144.36	115.0 CLEAR
NEW CP	BOONVILLE MO	257 C2	38-46-34 92-32-45	27.94	130.18	106.0 CLEAR
KADI LIC	REPUBLIC MO	258 A	37-09-54 93-23-44	191.35	65.43	31.0 CLEAR
KMBR CP	KANSAS CITY MO	259 C	39-05-01 94-30-57	323.89	185.38	95.0 CLEAR

THIS STUDY ONLY SHOWS THOSE CHANNEL AUTHORIZATIONS OR PROPOSALS
NEAREST TO THE SPECIFIED COORDINATES WHICH ARE OF CONCERN FOR
ALLOCATION PURPOSES.